

PATENT – AMENDMENT AFTER FINAL
Response under 37 CFR 1.116
Expedited Procedure
Examining Group: 3626

REMARKS

I. Status of the Claims

In the Office Action, the Examiner indicated that claims 1-4, 7, 9, 13-16, and 19-25 are rejected. Claims 1-4, 7, 9, 13-17, and 19 are currently amended. Claims 5, 6, 8, 10-12, 17, 18, 20-25 are currently canceled. Therefore, claims 1-4, 7, 9, 13-17, and 19 are pending for reconsideration.

II. Rejection of Claims 20-25 under 35 U.S.C. § 112

The Office Action rejected claims 20-25 under 35 U.S.C. § 112. The applicants respectfully note that claims 20-25 have been canceled. However the applicants have amended claims 1-4, 7, 9, 13-17, and 19 requiring the claim element “membership duration parameter value.” This claim element is similar to the claim element “membership history” & “bidding history” which is the basis for the § 112 rejection for claims 20-25. The applicants would like to note below that newly required claim element “membership duration parameter value” is fully supported by the specification. The applicants also note that the following passages from the specification support the prior claim elements (“membership history” & “bidding history”) giving rise to the § 112 rejection as well as the newly required “membership duration parameter value” element.

For support for the newly required element “membership duration parameter value” found in amended claims 1-4, 7, 9, 13-17, and 19, please see the following passages:

Page 4, lines 11-18, “Another aspect of the present invention is to have as one of the parameters bid exclusion amounts as determined by the bidders history. Still another aspect of the present invention is to have as one of the parameters an exclusion date which prevents submitted bids from being considered if the bidder has not been registered for bidding for a predetermined length of time.”

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Page 9, lines 25-29, "In this particular embodiment, the seller inputs a description of the goods/services to be auctioned, the auction ID is, however, already provided, the seller ID, as well as exclusionary information concerning registration date and bid amount."

Page 10, lines 12-16, "The categorized lists include bidder's membership history as well as bidder's bidding history or other features that the present invention envisions as being useful in terms of allowing the seller to preclude bids."

Page 13, lines 2-25, "The seller further inputs information to the fields 110, 112 for establishing the exclusionary or blocking parameters for use during the bid monitoring method to be described. At the field 110, the seller may input information identifying a date to be used for precluding submitted bids. In particular, this date can be a cut-off date indicative of the amount of time a bidder has been bidding with the particular website. If a registered bidder has been bidding with the particular ISP since before the cut-off date, such a bidder would be allowed to continue in the bidding of the instant auction. If not, the bidder would be blocked from participation. *Advantageously as a result of this feature, only potential bidders having a bidding history of a seller defined sufficient duration would be allowed to continue in the seller's auction.* At field 112, the seller may input information identifying an exclusionary parameter value for the bid. As will be described hereafter, if a bid should fall below the exclusionary value such bid would not be considered during an auction as will be described. Advantageously as a result of this feature, only potential bidders having a bidding history of a seller defined sufficient bid amount would be allowed to continue in the seller's auction."

Page 14, lines 3-11, "At step 308 it is determined by the ISP processor whether or not there is an exclusion date. If it is determined that there is no exclusion date then the method 300 proceeds to step 312. If it is determined that there is a date, then such date will be set a parameter value to update the registration date exclusion column/file of the database at step 310 for subsequent use by the ISP processor in configuring the bid monitoring method to be described."

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Page 16, lines 8-12, “the method proceeds to step 512 whereby the entered date is compared to the set parameter of the date exclusion file stored in the database as a result of the item registration method.”

II. Rejection of Claims 1-4, 7, 9, 19, and 20-23 under 35 U.S.C. § 103(a)

The office action rejects claims 1-4, 7, 9, 19, and 20-23 under § 103(a) as being unpatentable over Harrington et al. (US 6,161,099), in view of Lucking-Reiley (Auctions on the internet: What's Being Auctioned, and How?), and Taylor et al (Pub 2002/0065763). Again only claims 1-4, 7, 9, 13-17, and 19 remain pending. The applicants respectfully traverse this rejection in its entity.

Claim 1 requires, “setting at least one membership duration parameter value for use in precluding a submitted bid of one or more bidders by a seller identifying the at least one membership duration parameter value when registering for an auction at one computer system; and, automatically precluding the submitted bid of the one or more bidders at other computer systems on the network during the auction event if the one or more bidders actual membership duration is less than the at least one membership duration parameter value.”

Harrington teaches, “An apparatus and process for conducting auctions, specifically municipal bond auctions, over electronic networks, particularly the Internet, is disclosed. The auctioneer maintains a web site from which information about bonds to be auctioned can be obtained. A user participates in the auction by accessing the web site via a conventional Internet browser and is led through a sequence of screens that perform the functions of verifying the user's identity, assisting the user in preparing a bid, verifying that the bid conforms to the rules of the auction, displaying to the user during the course of the auction selected bid information regarding bids received and informing the bidder how much time remains in the auction. The user may be given the option of confirming the accuracy of his bid before submitting the bid. The auctioneer is able to review bidding history, determine the winner and notify the winner over the network, and display selected auction results to bidders and observers over the network.”

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However Harrington does not teach a seller identifying a membership duration parameter value.

Lucking-Reiley teaches a minimum acceptable bid amount as a parameter value. However Lucking-Reiley does not teach a membership duration parameter value.

Taylor teaches a bidding history table (history table 604) and a feedback summary table (feedback profile details table 608) to be used to “accept” bidder’s usernames as pre-approved bidders. However Taylor does not teach a membership duration parameter value.

The office action first makes a general assertion that any “parameter” would be obvious (i.e., in section 18 the office action states, “it is well-known in the art to prevent bidders from bidding based upon a variety of parameters.)

To support this assertion the office action cites Lucking-Reiley stating, “the individual seller chooses a minimum acceptable bid amount”. The applicants respectfully submit that the membership duration parameter value is not equivalent to a minimum acceptable bid amount. The office action can not make this general assertion: that because one parameter value is known or disclosed all parameter values are then obvious. For reason below the applicants assert that the *membership duration parameter value works with the other claim elements in an unexpected and fruitful manner, and is thus not obvious in view of any one particular known parameter.*

The office action further cites Taylor stating, “Taylor teaches wherein the parameter value relates to either a membership history value or a bidding history value of the one or more bidders, i.e., the summary table stores a summary of the feedback information regarding the bidders and sellers and bidders that have experienced a particular bidder’s behavior during the past auctions prove the feedback information (or comments) regarding the bidder”. However the only parameters taught in Taylor is bidding history and feedback of the bidder from other transactions. Similar to the known parameter value of minimum price taught in Lucking-Reiley, just because Taylor teaches one particular parameter value does not mean that all parameter values thereafter are obvious.

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In sections 1, 16, and 17 the office action states that, “[i]t would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate [the features of Lucking-Reiley and Taylor] into the methods of Harrington. One of ordinary skill in the art would have been motivated to incorporate this feature so that the seller has valuable insights to evaluate the potential bidders.” In essence the office action argues that the combination of Harrington, Lucking-Reiley, and Taylor would work better and is therefore obvious. This broad assertion simply can not be made. Generalization should be avoided in prima facie obviousness determinations. In other words a prima facie case of obviousness is improperly made when the prior art suggests only to explore a new technology or a general approach. As the office action states only a broad assertion that the claim features would be valuable to evaluate potential bidders, the prima facie case of obviousness is improper and is respectfully traversed.

Further, the claimed features work together in an unexpected and fruitful manner. To specifically indicate the differences between the “membership duration parameter value” and the known parameter values in Lucking-Relley and Taylor (i.e., minimum bid price, and feedback respectively), please consider the following example that specifically demonstrates the unexpected and fruitful benefits of a “membership duration parameter value”. The following example makes only general representations of online auctions. The following example does not consider the teachings of Harrington, Lucking-Reiley, Taylor, or any other reference. Therefore for instance “minimum feedback” and “minimum bidding history parameter” are generally used as parameters, and were not found in the teachings of Harrington, Lucking-Reiley, or Taylor.

A new bidder signs onto a bidding website and makes 50 winning bids in the first days of membership. All of the sellers of these goods indicated a reserve price. However only 25 of the sellers were concerned with the “feedback” of potential bidders. Ten sellers indicated a minimum bidding history parameter. The new bidder is a bum and is not planning on paying for any of the goods even though he bids an amount higher than all of the minimum price parameters. Toward the end of the 50 bids, the new bidder obtains a good “bidding history” because he has recently made many large bids.

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The bidding platform for the 25 sellers that indicated a minimum feedback parameter did not allow the new bidder to enter a bid, and their goods were sold to other bidders. However the new bidder “wins” the bids of the other 25 sellers (unlucky sellers) that did not enter a minimum feedback parameter. Weeks go by where all of the unlucky sellers wait to re-list their goods, in hopes that the new bidder proceeds with the transaction. Further because the new bidder obtained a good “bidding history value” the bidding history filter did not adequately filter out this new bidder from bidding. Alas, the new bidder does not pay for the goods, and the unlucky sellers are out the cost of the listing and the time needed to accommodate the new bidder.

If however a “membership duration parameter value” is added these unlucky sellers would have been able to block all new bidders, only allowing bidders with a long member history to proceed with making a bid, thus saving seller resources.

Even further, in order to render an invention unpatentable for obviousness, the prior art must enable a person of ordinary skill to make and use the invention (In re Kumar). Therefore Harrington, Lucking-Reiley, and Taylor must enable a person of ordinary skill to make and use the invention. As Harrington, Lucking-Reiley, and Taylor do not teach a membership duration parameter value, these references can not enable the present invention.

III. Rejection of Claims 13-16 and 24, 25 under 35 U.S.C. § 103(a)

The office action rejects claims 13-16 under § 103(a) as being unpatentable over Harrington et al. (US 6,161,099), in view of Lucking-Reiley (Auctions on the internet: What’s Being Auctioned, and How?), Taylor et al. (Pub 2002/0065763), and Danneels (US 6,272,472). The office action adds Danneels as teaching a computer program product generally with no enablement for the claimed invention. For the reasoning above, the applicants respectfully traverse this rejection in its entity.

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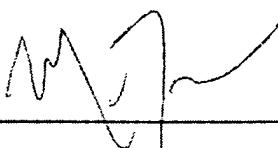
CONCLUSION

In view of the foregoing comments and amendments, the Applicants respectfully submit that all of the pending claims (i.e., claims 1-4, 7, 9, 13-17, and 19) are in condition for allowance and that the application should be passed to issue.

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Respectfully submitted,

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